Supreme Court, U.S.
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IN THE

Supreme Court of the United States

SIBEL EDMONDS,

Petitioner,

—v.—

DEPARTMENT OF JUSTICE, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the court of appeals erred in affirming dismissal of a retaliatory termination case by an FBI whistleblower, based on the state secrets privilege, prior to any discovery or consideration of non-privileged evidence.

2. Whether the court of appeals violated the First Amendment when it *sua sponte* excluded the press and public from the argument of this case, without case-specific findings demonstrating the necessity of closure.

PARTIES TO THE PROCEEDINGS

The petitioner in this case is Sibel Edmonds. The respondents are the United States Department of Justice; the Federal Bureau of Investigation; and the following individuals sued in their official capacities: Alberto Gonzales, Attorney General of the United States; Robert S. Mueller, III, Director of the Federal Bureau of Investigation; Thomas Frields, Supervisory Agent in Charge of the Federal Bureau of Investigation's Washington Field Office; and George Stukenbroker, Chief of Security of the Federal Bureau of Investigation's Washington Field Office.

RULE 29.6 STATEMENT

In accordance with United States Supreme Court Rule 29.6, petitioner states that she has no parent companies or non-wholly owned subsidiaries.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Sibel Edmonds, a former translator for the Federal Bureau of Investigation (FBI) who was terminated in retaliation for reporting serious security breaches and potential espionage within the FBI's translation unit, seeks review of the judgment of the United States Court of Appeals for the District of Columbia affirming the dismissal of her retaliatory termination case on the basis of the state secrets privilege. Petitioner also seeks review of the Court of Appeals' *sua sponte* exclusion of the press and the public from appellate argument.

OPINIONS BELOW

The order of the court of appeals is unreported. Appendix ("App.") 1a-2a. The opinion of the district court is reported at 323 F. Supp. 2d 65 (D.D.C. 2004). App. 5a-33a.

JURISDICTION

The court of appeals entered its judgment on May 6, 2005. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The jurisdiction of the court of appeals was invoked under 28 U.S.C. § 1291. The jurisdiction of the district court was invoked under 28 U.S.C. § 1331.

CONSTITUTIONAL AND REGULATORY PROVISIONS INVOLVED

The First Amendment to the United States Constitution provides in relevant part that "Congress shall make no law . . . abridging the freedom of speech, or of the press." The Fifth Amendment provides that "No person shall be . . . deprived of life, liberty, or property, without due process of law." The pertinent provisions of the Privacy Act are reprinted in the Appendix. *See* App. 39a-46a.

STATEMENT OF THE CASE

A. Ms. Edmonds' Termination

Following the terrorist attacks of September 11, 2001, Sibel Edmonds was hired by the FBI as a contract linguist to perform translation services in the Bureau's Washington Field Office. Court of Appeals Joint Appendix ("C.A. App.") 38 (Compl. ¶¶ 10-12). To obtain the requisite security clearance, Ms. Edmonds was subjected to, and passed, a polygraph examination and a ten-year background investigation. C.A. App. 38 (Compl. ¶ 14).

Between December 2001 and March 2002, Ms. Edmonds reported a number of incidents to FBI management officials that pointed towards "serious breaches in the FBI security program and a breakdown in the quality of translations as a result of willful misconduct and gross incompetence." C.A. App. 39 (Compl. ¶ 15). Ms. Edmonds' reports of misconduct included allegations that numerous communications had been intentionally left untranslated or mistranslated, thereby jeopardizing intelligence and law enforcement investigations related to the September 11 attacks and other ongoing counterterrorism, counterintelligence, and law enforcement investigations. Ms. Edmonds also reported concerns of potential espionage within the translation unit. Specifically, she reported that a fellow employee who had been granted a security clearance had past and ongoing associations with one or more targets of an ongoing FBI investigation and was apparently leaking information to those targets; that the same employee had improperly instructed Ms. Edmonds and another employee not to listen to or translate certain FBI wiretaps concerning those targets; and that the employee in question had threatened the lives and safety of Ms. Edmonds and a member of her family who resided in a foreign country. Finally, Ms. Edmonds reported that FBI managers had failed to take corrective action in response to her concerns, but had